



## **APPEAL TRIBUNAL DECISION**

**Docket number:** 25 0834    **Hearing date:** December 9, 2025

### **CLAIMANT:**

SHERRY THORN  
[REDACTED]  
[REDACTED]

### **CLAIMANT APPEARANCES:**

Sherry Thorn

### **DETS APPEARANCES:**

None

## **CASE HISTORY AND FINDINGS OF FACT - TIMELINESS**

The claimant filed an appeal against a September 23, 2025, determination that denied benefits under AS 23.20.378 on the grounds that the claimant was not available for work during a period of travel. The Division mailed the determination to the claimant's address of record on September 24, 2025. The claimant's appeal was filed on November 24, 2025, giving rise to the issue of the timeliness of the claimant's appeal.

The claimant did not receive the Division's determination at the time it was mailed because she was not at her residence. The claimant did note that she stopped receiving benefits and she attempted to contact the Division's claim center by phone beginning on September 22, 2025. The claimant was unable to reach a representative and she was advised that the call queue was full and to try again later. The claimant tried calling several times a day and she was unable to get through to the point where she could wait on hold for a representative. On November 17, 2025, the claimant received the determination because her parents forwarded it to her. The claimant noted an email address was provided for the purpose of filing an appeal, so she filed her appeal by email on November 24, 2025.

## **PROVISIONS OF LAW - TIMELINESS**

### **AS 23.20.340 provides in part;**

- (e) The claimant may file an appeal from an initial determination or a redetermination under (b) of this section not later than 30 days after the claimant is notified in person of the determination or

redetermination or not later than 30 days after the date the determination or redetermination is mailed to the claimant's last address of record. The period for filing an appeal may be extended for a reasonable period if the claimant shows that the application was delayed as a result of circumstances beyond the claimant's control.

- (f) If a determination of disqualification under AS 23.20.360, 23.20.362, 23.20.375, 23.20.378 - 23.20.387, or 23.20.505 is made, the claimant shall be promptly notified of the determination and the reasons for it. The claimant and other interested parties as defined by regulations of the department may appeal the determination in the same manner prescribed in this chapter for appeals of initial determinations and redeterminations. Benefits may not be paid while a determination is being appealed for any week for which the determination of disqualification was made. However, if a decision on the appeal allows benefits to the claimant, those benefits must be paid promptly.

**8 AAC 85.151 provides in part;**

- (b) An appeal may be filed with a referee, at any employment center, or at the central office of the division and, if filed in person, must be made on forms provided by the division. An appeal must be filed within 30 days after the determination or redetermination is personally delivered to the claimant or not later than 30 days after the date the determination or redetermination is mailed to the claimant's last address of record. The 30-day time period will be computed under Rule 6 of the Rules of Civil Procedure. However, the 30-day period may be extended for a reasonable time if the claimant shows that the failure to file within this period was the result of circumstances beyond his or her control.
- (c)

**CONCLUSION - TIMELINESS**

An appellant has the burden to establish some circumstance beyond the appellant's control prevented the timely filing of the appeal.

*It is clear from Estes v. Department of Labor, 625 P.2d 293 (Alaska 1981) that a late claimant must show some quantum of cause; implicit is the requirement that the claimant's delay be caused by some incapacity, be it youth, illness, limited education, delay by the post office, or excusable misunderstanding, at the very least, and that the state suffer no prejudice. If the delay is short, the claimant need show only some cause; for longer delays, more cause must be shown. Borton v. Emp. Sec. Div., Super. Ct., 1KE-84-620 CI, (Alaska, October 10, 1985).*

The claimant did not receive the determination in this matter, but she did note there was a problem with her benefits and she tried to contact the Division by phone throughout the appeal period with no success. It was not within the claimant's control that the Division was unable to take her call during the period when she could have filed a timely appeal.

Considering the claimant's circumstances and the above cited decision of the Commissioner, the Tribunal must find that the claimant has established that her delayed appeal was due to a circumstance beyond the claimant's control and the appeal is accepted as timely filed.

### **DECISION - TIMELINESS**

The claimant's appeal from the notice of determination issued on September 23, 2025 is **ACCEPTED** as timely filed.

### **CASE HISTORY - TRAVEL**

The determination issued September 23, 2025, denied the claimant's benefits under AS 23.20.378. The issue before the Appeal Tribunal is whether the claimant was available for suitable work during a period of travel.

### **FINDINGS OF FACT - TRAVEL**

The claimant established a claim for unemployment insurance benefits effective August 31, 2025. On September 13, 2025 at about 1:30 am, the claimant departed from her home in Alaska and flew to Las Vegas, Nevada to search for work. The claimant traveled to Surprise Arizona on November 17, 2025, because of a family emergency, and she was still located in Arizona at the time of the hearing. The claimant held that she remains available for full-time work despite her family responsibilities and she is searching for work in Arizona and would be willing to relocate.

The claimant had a scheduled interview with a prospective employer pre-arranged for September 17, 2025. The claimant made two in-person contacts with prospective employers in the week ending September 27, 2025. The claimant made one in-person contact each in the weeks ending October 4, 2025, and October 11, 2025. The claimant continues to search for work and make periodic in-person contacts with prospective employers as well as applying through employer's websites. The claimant has a ticket to return to Alaska on January 17, 2025, but she is willing to cancel that and remain in Arizona or Nevada if suitable work is offered.

The claimant was advised during the hearing that she had the option to re-open her benefit claim and provide her current temporary address to the Division, after which she would be required to meet the work registration requirements of the state she is temporarily residing in.

## **PROVISIONS OF LAW - TRAVEL**

### **AS 23.20.378 provides:**

- (a) An insured worker is entitled to receive waiting-week credit or benefits for a week of unemployment if for that week the insured worker is able to work and available for suitable work....

### **8 AAC 85.350:**

- (a) A claimant is considered able to work if the claimant is physically and mentally capable of performing work under the usual conditions of employment in the claimant's principal occupation or other occupations for which the claimant is reasonably fitted by training and experience.
- (b) A claimant is considered available for suitable work for a week if the claimant
  - (1) registers for work as required under 8 AAC 85.351;
  - (2) makes independent efforts to find work as directed under 8 AAC 85.352 and 8 AAC 85.355;
  - (3) meets the requirements of 8 AAC 85.353 during periods of travel;
  - (4) meets the requirements of 8 AAC 85.356 while in training;
  - (5) is willing to accept and perform suitable work which the claimant does not have good cause to refuse;
  - (6) is available, for at least five working days in the week, to respond promptly to an offer of suitable work; and
  - (7) is available for a substantial amount of full-time employment.

### **8 AAC 85.353 provides:**

- (a) The requirements of this section apply to any period during which a claimant travels outside the customary commutable area in which the claimant resides, unless the claimant travels while exempted from availability requirements under AS 23.20.378(a) or in connection with training approved under AS 23.20.382. For purposes of this section, a customary commutable area means an area where a claimant customarily commutes to and from work each day.
- (b) A claimant is available for work each week while traveling only if the claimant is traveling to
  - (1) search for work and is legally eligible to accept work in the area of travel;
  - (2) accept an offer of work that begins no later than 14 days after the claimant's departure; or
  - (3) establish or return to a residence immediately following the

- claimant's discharge from the armed forces.
- (c) A claimant who travels in search of work must be legally eligible to accept work and make reasonable efforts to find work each week in the area of the claimant's travel, by
    - (1) contacting in person an employment office;
    - (2) making at least two in-person employer contacts;
    - (3) registering in person with the local chapter of the claimant's union that has jurisdiction over the area of the claimant's travel; a claimant who has previously registered with the local union that has jurisdiction over the area of the travel is available for work if the claimant makes contacts as required by the union to be eligible for dispatch in the area of the travel; or
    - (4) attending in person a pre-arranged job interview.
  - (d) A claimant is not available for work after the claimant travels for more than four consecutive calendar weeks to search for work. A claimant is not available for work after the claimant travels for more than seven days if traveling to
    - (1) accept an offer or work that begins 14 days after the claimant's departure; or
    - (2) establish or return to a residence immediately following the claimant's discharge from the armed forces.

### **CONCLUSION - TRAVEL**

Alaska Statute 23.20.378 holds that a claimant must be available for suitable work in order to be eligible for benefits for a week of unemployment. Regulation 8 AAC 85.350 holds a claimant must be available to promptly accept an offer of work for at least five working days of their customary workweek. The regulation also provides that a claimant must comply with the requirements of regulation 8 AAC 85.353, which applies to any period during which a claimant travels outside the area in which the claimant resides. That regulation holds that a claimant who travels away from their area of residence during their customary workweek is considered available for work if they travel in search of work, but they must demonstrate a reasonable effort to find work in the area of the travel. Attending a pre-arranged job interview meets the requirement set out in the regulation, as does making two in-person employer contacts in a week. The claimant met the requirements in the weeks ending September 20, 2025, and September 27, 2025. The claimant made only one in-person employer contact in the weeks ending October 4, 2025 and October 11, 2025, so she did not meet the requirements in those weeks.

Regulation 8 AAC 85.353 holds a claimant is not available for work after the claimant travels for more than four consecutive calendar weeks to search for work.

*Neither the Appeal Tribunal nor I have any jurisdiction to hold contrary to the clear wordage of the law. Scott, Com. Dec. 87H-EB-162, June 18, 1987.*

The Tribunal concludes that the claimant was available for work in the weeks ending September 20, 2025, and September 27, 2025. Benefits after that date remain denied and the claimant remains ineligible for benefits while she is in travel status.

### **DECISION - TRAVEL**

The determination issued on September 23, 2025, is **MODIFIED**. Benefits are **ALLOWED** for the weeks ending September 20, 2025 and September 27, 2025, if the claimant is otherwise eligible. Benefits remain denied while the claimant is in travel status.

### **APPEAL RIGHTS**

This decision is final unless an appeal is filed in writing to the Commissioner of Labor and Workforce Development **within 30 days** after the decision is mailed to each party. The appeal period may be extended only if the appeal is delayed for circumstances beyond the party's control. A statement of rights and procedures is enclosed.

Dated and mailed on December 11, 2025

A solid black rectangular box used to redact the signature of the Appeals Officer.

Rhonda Bunes, Appeals Officer